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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91190169
Party	Defendant Susino USA, LLC
Correspondence Address	Todd Nadrich Susino USA, Ltd. PO BOX 1013 LOXAHATCHEE, FL 33470-1013 UNITED STATES tnadrich@stsource.com
Submission	Motion for Summary Judgment
Filer's Name	Todd Nadrich
Filer's e-mail	tnadrich@stsource.com
Signature	/Todd Nadrich/
Date	03/12/2010
Attachments	Motion for Summary Judgement w Exhibits.pdf (63 pages)(349224 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE
THE TRADEMARK TRIAL AND APPEAL BOARD**

In The Matter of App. Ser. No. 77/355,544)	
)	
)	
SUSINO UMBRELLA CO., LTD.)	
)	
Opposer,)	
)	
v.)	Opposition No. 91190169
)	
SUSINO USA, LLC)	
)	
Applicant,)	

APPLICANT’S MOTION FOR SUMMARY JUDGMENT

Applicant, Susino USA (hereinafter “Applicant”), moves for summary judgment on the Notice of Opposition filed by Opposer, Susino Umbrella, Ltd. (hereinafter “Opposer), under Fed. R. Civ. P. 56 as made applicable to these proceedings and under 37 C.F.R. § 2.116(a). Based on the material facts as to which there are no genuine issues to be tried, as a matter of law, Opposition No. 91190169 should be dismissed and registration of SUSINO granted to Applicant.

INTRODUCTION

Opposer, Susino Umbrella LTD, has opposed registration of Susino, subject of Serial No. 77/355,544, for Beach umbrellas; Beach umbrellas; Frames for umbrellas; Golf umbrellas; Metal parts of umbrellas; Parasols; Patio umbrellas; Table umbrellas;

Telescopic umbrellas; Umbrella covers; Umbrella frames; Umbrella handles; Umbrella rings; Umbrellas; Umbrellas and parasols; Umbrellas and their parts; Umbrellas for children in International Class 16. Applicant, Susino USA, timely filed an Answer to the Notice Of Opposition. Applicant served Opposer with Interrogatories, Request for Production of Documents and Request for Admissions on Opposer, but Opposer has failed to respond.

Timing is proper for the filing of a motion for summary judgment since Opposer's testimony period has not yet commenced, 37 SFR § 2.127(e)(1); TBMP §528.02. This Motion for Summary Judgment is made on the ground that Applicant has priority rights over Opposer as a matter of law.

Summary Judgment is a salutary method of disposition "designed to secure the just, speedy and inexpensive determination of every actions" *Sweats Fashions, Inc. v. Panmill Knitting Co. Inc.* 4 USPQ2d 1793, 1795 (Fed. Cir. 1987) (quoting *Celotex Corp. v. Catrett*, 477 U.S. 317,327 (1986)). Summary Judgment is appropriate in a case, such as this one, where the pleadings and evidence of record show that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. See Fed. R. Civ. P. 56.

Applicant's motion is supported by:

1. Exhibit A: Applicant's Request for Admissions to Oppose, Served on Opposer by first class mail, postage prepaid on January 11, 2010 and by e-mail¹. (Unanswered by Opposer.)

¹ On November 30, 2009, Opposer contacted Applicant's representative by e-mail attaching Statement Of Opposer Chooses to Represent Itself also requesting the parties to communicate by e-mail.

2. Exhibit B: Applicant's Request of Interrogatories to Opposer served on Opposer by first class mail postage prepaid on December 23, 2009 and by e-mail. (Unanswered by Opposer)

3. Exhibit C: Applicant's Request for Production of Documents, served on Opposer by first class mail, postage prepaid on December 23, 2009 and by e-mail. (Unanswered by Opposer.)

4. Exhibit D: The pleadings herein.

STATEMENT OF UNCONTROVERTED FACTS

For the purposes of this Motion for Summary Judgment, Applicant stipulates to the following facts:

1. Applicant filed United States Application Serial No. 77/355,544 on December 19, 2007 for the mark Susino for use in association for Beach umbrellas; Beach umbrellas; Frames for umbrellas; Golf umbrellas; Metal parts of umbrellas; Parasols; Patio umbrellas; Table umbrellas; Telescopic umbrellas; Umbrella covers; Umbrella frames; Umbrella handles; Umbrella rings; Umbrellas; Umbrellas and parasols; Umbrellas and their parts; Umbrellas for children in International Class 18.
2. Applicant filed United States Applications Serial No. 77/355,544 for the mark SUSINO as use in commerce application under 15 USC §1051(a) with a first use date of June 1, 2007.

3. Opposer has not used the mark SUSINO in commerce and has no pending application nor has presented any evidence or documentation where Opposer can show they have priority rights over Applicant.

ARGUMENT

I. APPLICANT HAS PRIORITY RIGHTS

A. OPPOSER ADMITTED APPLICANT HAS PRIORITY RIGHTS

If a party, which Requests for Admission have been served, fails to timely respond thereto, the requests will stand admitted. TBMP § 407.04 and 411.02.

Applicant served its Request for Admission on Opposer by first class mail, postage prepaid, on January 11, 2010. Responses were due by February 10, 2010.

Because of Opposer's failure to respond in a timely manner, the admissions are deemed admitted and conclusively established. Fed. R. Civ. P. 36

All matters raised in the Request for Admissions are deemed and conclusively established, including the facts (among others):

- Opposer does not have, has had a pending application, or registered application for the mark SUSINO. Exhibit A, No. 18 and No. 12
- Opposer has not sold any goods or offered and goods in commerce using the mark SUSINO prior to Applicant's first date of use December 10, 2007. Exhibit A No. 8

- Opposer admits Applicant has priority rights to the sole mark SUSINO, Exhibit A No. 16
- Opposer's legal name as registered in the People's Republic of China when translated into English is "Plum Blossom Umbrella, Ltd." Exhibit A No. 23.

In view of the conclusive establishment of the above facts, among others, it is appropriate to find Applicant has priority rights as a matter of law, and to grant Applicant's Motion for Summary Judgment.

THIS OPPOSITION IS RIPE FOR SUMMARY JUDGMENT

Summary judgment is appropriate in a trademark opposition proceeding where, as here, there are no genuine issues of material fact to be tried. In *Pure Gold, Inc. v. Syntex (U.S.A.) Inc.*, 222 USPQ 741 (Fed. Cir. 1984), the TTAB's grant of summary judgment in an opposition proceeding was affirmed. The Federal Circuit, in citing *Exxon Corp. v. National Foodline Corp.*, 198 USPQ 407,408(CCPA 1978) explained that the basic purpose of summary judgment in that of judicial economy. It is against the public interest to conduct useless trials. Summary judgment is favored over enduring the time and expense of a full trial.

In *Pure Gold, Inc. v. Syntex (U.S.A.) Inc.*, 222 USPQ at 744, n.2., the Federal Circuit encouraged the disposition of matters before the TTAB by summary judgment:

The practice of the US Claims Court and of the former U.S. Court of Claims in routinely disposing of numerous cases on the basis of cross-motions for summary judgment has much to commend it. The adoption of similar practice is to be encouraged in inter party cases before the

Trademark Trial and Appeal Board, which seem particularly suitable to this type of disposition Too often we see voluminous records which would be appropriate to an infringement or unfair competition suit but are wholly unnecessary to resolution of the issue of registrability of a mark.

SUMMARY

The present motion conclusively establishes that Applicant is entitled to summary judgment dismissing the opposition and granting registration of SUSINO. The facts are simple, clear, and fit within the cited statutes and case law. There are no genuine issues of material of fact to be tried. In view of Opposer admission that they do not have priority rights over Applicant's application in the mark SUSINO, Applicant is entitled to summary judgment as a matter of law.

Applicant requests that all proceedings not germane to this summary judgment motion be suspended including the remaining trial dates. 37 C.F.R. § 2.127(d); TBMP § 528.03.

Applicant Susino USA, LTD., respectfully requests the Board grant the present motion in all respects.

Respectfully Submitted:

By: /s/ /Todd Nadrich/

Todd Nadrich
Susino USA, Ltd
PO Box 1013
Loxahatchee, Fl. 33470
Telephone: 954-252-3911
Fax: 954-252-3911

Certificate of Service

I hereby certified that the above and forgoing APPLICANT'S MOTION FOR SUMMARY JUDGMENT was served upon Opposers by depositing a copy of same in the United States Mail, first class postage repaid, on this 12 day of March 2010, addressed to:

Anbang Wang
Jinou Industrial Park
Dongshi Town
Jinjiang, FJ 352771
China,
meihuaumbrella@yahoo.com.cn

/s/ /Todd Nadrich/

Todd Nadrich

EXHIBIT A

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

In The Matter of App. Ser. No. 77/355,544)	
)	
)	
SUSINO UMBRELLA CO., LTD.)	
)	
Opposer,)	
)	
v.)	Opposition No. 91190169
)	
SUSINO USA, LLC)	
)	
Applicant,)	

APPLICANTS REQUEST FOR ADMISSIONS

Pursuant to Trademark Rule of Practice 2.120 (37 U.S.C. § 2.120). Trademark Trial and Appeal Board Manual of Procedure § 410, and Federal Rule of Civil Procedure 36, Applicant SUSINO USA requests that Opposer SUSINO UMBRELLA admit the truth of the Request for Admissions set forth below within thirty (30) days produce after service of this request.

DEFINITIONS

1. The terms “SUSINO UMBRELLA,” “you,” and “your” refer to Opposer and include any persons controlled by or acting on behalf of that entity, including but not limited to all officers, directors, owners, employees, agents, representatives, and attorneys, and any predecessors, subsidiaries, parent companies, affiliated companies, or joint ventures.

2. The term “SUSINO USA” refers to Applicant and includes any persons controlled by or acting on behalf of that entity, including but not limited to all officers, directors, employees, agents, representatives, and attorneys, and any predecessors, subsidiaries, parent companies, affiliated companies, or joint ventures.

3. The term “SUSINO” means trademark application 77/355,544 for the mark SUSINO with an effective filing date of December 19, 2007 and date of first use of June 1, 2007.

The terms “all” and “each” shall each be construed to include the other.

INSTRUCTIONS

1. Your written response to this request must comply with Rule 36 of the Federal Rule of Civil Procedure, in that if you do not admit each matter, you must separately respond under oath to each request within thirty (30) days of the service of this request by:

- (a) Admitting so much of the matter involved in the request as is true, either as expressed in the request itself or as reasonably and clearly qualified by you;
- (b) By denying so much of the matter involved in the request as is untrue; and
- (c) Specifying so much of the matter involved in the request as to the truth of which the responding party lacks sufficient information or knowledge.

2. If your response to a particular request is that you lack information or knowledge as a reason for failure to admit all or part of a request for admission, then you shall state in the answer that a reasonable inquiry concerning the matter in the particular request has been made, and that the information known or readily obtainable is insufficient to enable you to admit that matter.

3. If your response is that only part of a request for admission is objectionable, the remainder of the request shall be answered.

4. If an objection is made to a request or to a part of a request, the specific ground for the objection shall be set forth clearly in the response.

5. These requests for admission are continuing and require further answer and supplementation, as provided by Federal Rule of Civil Procedure 26(e).

For the purpose of this Request, the following definitions and instructions shall apply.

REQUESTS FOR ADMISSIONS

REQUEST FOR ADMISSION NO. 1:

Admit that you had constructive knowledge of 77/355,544 application since its effective date of filing with the U.S. Patent and Trademark Office (“USPTO”) of SUSINO.

REQUEST FOR ADMISSION NO. 2:

Admit that SUSINO USA served the Initial Disclosures to your prior attorneys on August 20, 2009.

REQUEST FOR ADMISSION NO. 3:

Admit that on December 23, 2009 you had been served by e-mail and by mail with Applicant’s Interrogatories and Applicant’s Request for Documents to Opposer.

REQUEST FOR ADMISSION NO. 4:

Admit that Susino USA, it’s affiliated companies, directors, officers, or employees never acted as an agent or middleman for your company in the sales of umbrellas or has offered the same prior to its’ SUSINO application.

REQUEST FOR ADMISSION NO. 5:

Admit that Jinjiang Hengshun Gingham Company is not the same company as Susino Umbrella, LTD.

REQUEST FOR ADMISSION NO. 6:

Admit that the USPTO issued a notice of abandonment for application 79/001855 to Jinjiang Hengshun Gingham Company as in attached Exhibit “A”.

REQUEST FOR ADMISSION NO. 7:

Admit that there was never a response filed by you to the notice of abandonment for application 79/001855.

REQUEST FOR ADMISSION NO. 8:

Admit that prior to Applicant's application 77/355,544 you never sold or offered to sell any goods in the United States with the SUSINO mark.

REQUEST FOR ADMISSION NO. 9:

Admit that application 79/001855 filed by Jianjiang Hengshun Gingham Company has been declared abandoned and dead by the USPTO.

REQUEST FOR ADMISSION NO. 10:

Admit that prior to Applicant's application in 77/355,544 declaring a date of first use of December 10, 2007, you never have used the mark SUSINO for any goods or services for sale in the United States.

REQUEST FOR ADMISSION NO. 11:

Admit that application 79/001855 consists of the Chinese characters forming the Chinese word "Meihau" which translated into English is "plum blossom".

REQUEST FOR ADMISSION NO. 12:

Admit that you have never filed a United States trademark application for the mark SUSINO.

REQUEST FOR ADMISSION NO. 13:

Admit that Applicant shared with you and you having knowledge that Applicant had been evaluating, researching, and marketing to it's customers the use of the SUSINO mark for umbrellas as far back as July 2004.

REQUEST FOR ADMISSION NO. 14:

Admit that prior to the date of Applicant's application of 77/355,544 you never filed an application for the mark SUSINO.

REQUEST FOR ADMISSION NO. 16:

Admit that Applicant, Susino USA, has priority rights to the sole mark SUSINO in application 77/355,544.

REQUEST FOR ADMISSION NO. 17:

Admit that you never filed a company name change with the PTO for application 77/001855.

REQUEST FOR ADMISSION NO. 18:

Admit you have no pending or registered application with the PTO using the mark SUSINO.

REQUEST FOR ADMISSION NO. 19:

Admit that your company at the time filing it's opposition did not have any registered companies, employees, officers, directors, offices, or warehouses located within the United States.

REQUEST FOR ADMISSION NO. 20:

Admit that Susino USA, its' directors, officers, or any of it's affiliated companies (Susino USA et. al) have never received any monies from you in the form of commissions under any agreement, whether verbal or written, as an acting agent or middleman for any goods produced by your company.

REQUEST FOR ADMISSION NO. 21:

Admit that since January, 2008 Susino USA has ceased all business relations with your company due to defective products produced exclusively for Susino USA et. al. by your company.

REQUEST FOR ADMISSION NO. 22:

Admit that Susino USA et. al. has suffered monetary damages, customer goodwill, and loss of business due to defective products and breach of contract by your company.

REQUEST FOR ADMISSION NO. 23:

Admit that your company's legal name, as registered in the People's Republic of China, is translated from Chinese to English as Plum Blossom Umbrella, Company.

Respectfully Submitted:

By: _/s/ /Todd Nadrich/

Todd Nadrich
Susino USA, Ltd
PO Box 1013
Loxahatchee, Fl. 33470
Telephone: 954-252-3911
Fax: 954-252-3911

Certificate of Service

I hereby certified that the above and forgoing REQUEST FOR ADMISSIONS served upon
Opposers by depositing a copy of same in the United States Mail and first class postage prepaid
and copy of the same was sent by e-mail, on this 11 day of January, 2010, addressed to:

Anbang Wang
Jinou Industrial Park
Dongshi Town
Jinjiang, FJ 352771
China,
meihuaumbrella@yahoo.com.cn

/s/ /Todd Nadrich/

Todd Nadrich

EXHIBIT B

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

In The Matter of App. Ser. No. 77/355,544)

)

SUSINO UMBRELLA CO., LTD.)

Opposer,)

v.)

SUSINO USA, LLC)

Applicant,)

Opposition No. 91190169

APPLICANT’S INTERROGATORIES TO OPPOSER

Pursuant to Trademark Rule of Practice 2.120 (37 U.S.C. § 2.120), Trademark Trial and Appeal Board Manual of Procedure § 406, and Federal Rule of Civil Procedure 33, Applicant and Counterclaimant Susino USA requests that Opposer and Counter-respondent Susino Umbrella answer the following Interrogatories separately and fully, in writing, under oath within thirty (30) days after date of service.

For the purpose of these Interrogatories, the following definitions and instructions shall apply:

DEFINITIONS

1. The term Susino Umbrella, “you,” and “your” refer to Opposer and Counter-respondent and include any persons controlled by or acting on behalf of that entity, including but not limited to all officers, directors, owners, employees, agents, representatives, and attorneys, and any predecessors, subsidiaries, parent companies,

affiliated companies, or joint venturers.

2. The term Susino USA refers to Applicant and Counterclaimant and includes any persons controlled by or acting on behalf of that entity, including but not limited to all officers, directors, employees, agents, representatives, and attorneys, and any predecessors, subsidiaries, parent companies, affiliated companies, or joint venturers,

3. The term SUSINO means any word, name, symbol or device or other designation of origin incorporating the letter string SUSINO or its phonetic equivalent, in which you claim rights, including any trademark, service mark, or Internet domain name.

4. The term SUSINO means trademark application the mark SUSINO with an effective filing date of April 2007.

5. The term “person” means any natural person or any business, legal or governmental entity, or association.

6. The term “document” as used herein is synonymous in meaning and equal in scope to the usage of this term in Federal Rule of Civil Procedure 34, any “writings and recordings” and “photographs” as defined by Federal Rule of Evidence 1001, and its interpretation by the courts, and includes, without limitation, all originals, drafts, and non-identical copies of any written, printed, typed, recorded, electronic, magnetic, optical, punched, copied, graphic or other tangible thing in, upon or from which information may be conveyed, embodied, translated, or stored (including, but not limited to, papers, records, books, correspondence, contracts, minutes of meetings, memoranda, notes on desk calendars and appointment books, intra-office communications, canceled checks, invoices, telegrams, telexes, dictation or other audio tapes, video tapes, studies, electronic mail, information stored in computer readable form, on a compact disc, or any other type of data

storage device or medium, computer printouts, microfilm, microfiche, laser disks, diaries, calendars, photographs, charts, viewgraphs, drawings, sketches and all other writings or drafts thereof), as well as all other tangible things subject to production under Federal Rule of Civil Procedure 34.

7. The term “identify,” when referring to:

a. a natural person, means to give his or her full name, present or last address and telephone number, last known place of employment and job title;

b. a public or private corporation, partnership, association, agency or other entity, means to give its present or last known address and telephone number, and state of incorporation, if applicable;

c. a document, means to state its general character, title, date, addressee or recipient, author or signatory, present location, and who has possession, custody or control of the document, provided, however, that answers to interrogatories requesting identifications or descriptions of certain communications or documents may be satisfied by attaching a true and correct copy of any written documents, as described herein, containing the requested information;

d. a product, means to provide a description of the item which is offered for sale, and the intended market for the product;

e. a service, means to describe the service and the intended market for the service.

8. The term “communication” is defined as any transmission or exchange of information between two (2) or more persons, orally or in writing, and includes, without limitation, any conversation or discussion, whether face-to-face or by means of telephone, letter, facsimile, electronic or other media.

10. The terms “relating to” and “related to” mean, without limitation, concerning, containing, evidencing, describing, constituting, referring to, explaining, discussing or reflecting.

11. The use of a present tense shall include past tenses.

12. The use of the singular form of any word also includes the plural and vice versa.

13. The terms “all” and “each” shall each be construed to include the other.

INSTRUCTIONS

1. In answering these Interrogatories, furnish all information, including information contained in or on any document, that is known or available to you, including all information in the possession of your attorneys or other persons acting on your behalf or under your attorneys’ employment or direction.

2. If you cannot answer any interrogatory fully and completely after exercising due diligence to make inquiries and secure information necessary to do so, so state, and answer each such interrogatory to the full extent you deem possible; specify the portion of such interrogatory that you claim you are unable to answer fully and completely; state the facts on which you rely to support your contention that you are unable to answer such interrogatory fully and completely; and state what knowledge, information and/or belief you have concerning the unanswered portion of each such interrogatory.

3. If there is any item of information that you refuse to disclose on grounds of privilege or work-product immunity, answer so much of the interrogatory as does not request information for which you claim privilege, state the nature of the privilege you claim, and provide sufficient details, including the nature of the information, its source, its subject

matter, and the names of all persons to whom that information was disclosed, such as would enable the claim of privilege or immunity to be adjudicated.

4. If the response to any interrogatory consists, in whole or in part, of an objection relating to burdensomeness, then with respect to such response:

a. Provide such information as can be ascertained without undue burden;

b. State with particularity the basis for such objection including:

i. a description of the process or method required

to obtain any fact responsive to the interrogatory; and

ii. the estimated cost and time required to obtain any fact responsive to the interrogatory.

5. These interrogatories are continuing and require further answer and supplementation, as provided by Federal Rule of Civil Procedure 26(e).

INTERROGATORIES

Consistent with the foregoing definitions and instructions, please answer the following interrogatories:

INTERROGATORY NO. 1:

Identify each officer of your company, including each officer's name, title, address, and job duties.

INTERROGATORY NO. 2:

Identify each predecessor, parent, or subsidiary of Susino Umbrella.

INTERROGATORY NO. 3:

Describe in detail the circumstances through which you first became aware of Susino USA's and its use of the Susino mark.

INTERROGATORY NO. 4:

Identify each person who participated in the selection of Susino mark.

INTERROGATORY NO. 5:

Identify each person who participated in a decision to file any application for registration of Susino mark.

INTERROGATORY NO. 6:

Identify every product and service in connection with which you have used or are using Susino mark.

INTERROGATORY NO. 7:

For each product and service requested to be identified in Interrogatory No. 6, identify the persons most knowledgeable about each product or service.

INTERROGATORY NO. 8:

For each product and service requested to be identified in Interrogatory No. 6, identify the price at which each of those products and services is offered.

INTERROGATORY NO. 9:

For each product and service requested to be identified in Interrogatory No. 6, state the facts that support the exact date, upon which you intend to rely, of first use of Susino mark in the United States to identify the product or service.

INTERROGATORY NO. 10:

Identify the persons with most knowledge about the facts stated in response to Interrogatory No. 9.

INTERROGATORY NO. 11:

For each product and service requested to be identified in Interrogatory No. 6, explain the extent to which there has been any interruption to continuous use of Susino mark to identify the product or service.

INTERROGATORY NO. 12:

For each product and service requested to be identified in Interrogatory No. 6, describe the channels of trade of the product or service,

INTERROGATORY NO. 13:

For each product and service requested to be identified in Interrogatory No. 6, identify the persons most knowledgeable about the sales and distribution of the product or service.

INTERROGATORY NO. 14:

For each product and service requested to be identified in Interrogatory No. 6, identify the persons most knowledgeable about the advertising and promotion of the product or service.

INTERROGATORY NO. 15:

For each product and service requested to be identified in Interrogatory No. 6, list by calendar year the expenditures you have made on advertising and promotion of the product or service.

INTERROGATORY NO. 16:

For each product and service requested to be identified in Interrogatory No. 6, identify the nature and title (if applicable) of the media in which all advertisements of the product or service have appeared, including the date of, and geographic scope (by city and state) of such advertisements.

INTERROGATORY NO. 17:

For each product and service requested to be identified in Interrogatory No. 6, describe the target markets and characteristics of targeted consumers.

INTERROGATORY NO. 18:

For each product and service requested to be identified in Interrogatory No. 6, identify your major competitors and their competing products or services.

INTERROGATORY NO. 19:

For each product and service requested to be identified in Interrogatory No. 6, identify the geographic area in which the product or service is offered.

INTERROGATORY NO. 20:

Describe any studies, tests, ratings, or surveys related to the quality of the products and services offered under Susino mark.

INTERROGATORY NO. 21:

Describe any studies, tests, ratings, or surveys related to consumer recognition of Susino mark in the United States.

INTERROGATORY NO. 22:

Describe in detail each incident, known to you, of actual confusion between you or any of your products and services and Susino USA or any of its products and services.

INTERROGATORY NO. 23:

For each of the incidents described in response to Interrogatories No. 21, identify the persons with knowledge thereof.

INTERROGATORY NO. 24:

Identify any communications received by you that were addressed to or intended for Susino USA or Shu-lian Shyu

INTERROGATORY NO. 25:

Identify every trademark search you ever conducted relating to Susino mark.

INTERROGATORY NO. 26:

Identify every opinion, legal or otherwise, requested or received by you,

regarding the right to use of the mark Susino including the identity of the persons requesting the opinion, the date and substance of the opinion, and the persons receiving the opinion.

INTERROGATORY NO. 27:

Identify and describe any agreements in which you have licensed Susino mark for use by any other party.

INTERROGATORY NO. 28:

Identify any steps you have taken to exercise quality control in connection with the licenses identified in your response to Interrogatory 26.

INTERROGATORY NO. 29:

Describe in detail all efforts you have made to enforce against third parties, other than Susino USA, the rights you claim in Susino mark.

INTERROGATORY NO. 30:

Describe in detail any instances in which a third party, other than Susino USA, has challenged your right to use, or the rights you claim in, Susino mark.

INTERROGATORY NO. 31:

Identify all documents supporting your allegation in Paragraphs 3,4,5,6,7,8,9, and 10 of the Notice of Opposition that “Opposer, since at least as early as 2002 has been and is now using the mark Susino. Said use has been valid and continuous since date of first use and has not been abandoned.”

INTERROGATORY NO. 32:

Identify each expert witness that you intend to call in this proceeding, including the facts or subject matter about which they are expected to testify.

INTERROGATORY NO. 33:

Describe in detail any plans for future expansion of your use of Susino mark to products and services in connection with which the mark is not already in use.

Respectfully Submitted this date of December 23, 2009.

By: _/s/ /Todd Nadrich/

Todd Nadrich
Susino USA, Ltd
PO Box 1013
Loxahatchee, Fl. 33470
Telephone: 954-252-3911
Fax: 954-252-3911

Certificate of Service

I hereby certified that the above and forgoing REQUEST FOR DOCUMENTS served upon
Opposers by depositing a copy of same in the United States Mail, first class postage prepaid, on this
23 day of December, 2009, addressed to:

Anbang Wang
Jinou Industrial Park
Dongshi Town
Jinjiang, FJ 352771
China,

/s/ /Todd Nadrich/

Todd Nadrich

EXHIBIT C

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE
THE TRADEMARK TRIAL AND APPEAL BOARD**

In The Matter of App. Ser. No. 77/355,544)	
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SUSINO UMBRELLA CO., LTD.)	
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Opposer,)	
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v.)	Opposition No. 91190169
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SUSINO USA, LLC)	
)	
Applicant,)	

DOCUMENT REQUESTS

Pursuant to Trademark Rule of Practice 2.120 (37 U.S.C. § 2.120). Trademark Trial and Appeal Board Manual of Procedure § 408, and Federal Rule of Civil Procedure 34, Applicant SUSINO USA requests that Opposer SUSINO UMBRELLA produce for inspection and copying the documents and things listed below at the deposition of the Custodian of Records of SUSINO UMBRELLA to be held on January 22, 2009 at the offices of to be determined by the parties prior to the request is due.

For the purpose of this Request, the following definitions and instructions shall apply.

DEFINITIONS

1. The terms “SUSINO UMBRELLA ,” “you,” and “your” refer to Opposer and include any persons controlled by or acting on behalf of that entity, including but not limited to all officers, directors, owners, employees, agents, representatives, and attorneys, and any predecessors, subsidiaries, parent companies, affiliated companies, or joint venturers.

2. The term “SUSINO USA ” refers to Applicant and includes any persons controlled by or acting on behalf of that entity, including but not limited to all officers, directors, employees, agents, representatives, and attorneys, and any predecessors, subsidiaries, parent companies, affiliated companies, or joint venturers.

3. The term SUSINO means any word, name, symbol or device or other designation of origin incorporating the letter string SUSINO or its phonetic equivalent, in which you claim rights, including any trademark, service mark, or Internet domain name, or any trademark or service mark application or registration.

4. The term SUSINO means, specifically, trademark application 79001855, for the mark SUSINO.

5. The term SUSINO means, specifically, trademark 79001855, for the mark SUSINO.

6. The term “person” means any natural person or any business, legal or governmental entity, or association.

7. The term “document” as used herein is synonymous in meaning and equal in scope to the usage of this term in Federal Rule of Civil Procedure 34, any “writings and recording” and “photographs” as defined by Federal Rule of Evidence 1001, and its interpretation by the courts, and includes, without limitation, all originals, drafts, and non-identical copies of any written, printed, typed, recorded, electronic, magnetic, optical, punched, copied, graphic or other tangible thing in, upon or from which

information may be conveyed, embodied, translated, or stored (including, but not limited to, papers, records, books, correspondence, contracts, minutes of meetings, memoranda, notes or desk calendars and appointment books, intra-office communications, canceled checks, invoices, telegrams, telexes, dictation or other audio tapes, video tapes, studies, electronic mail, information stored in computer readable form, on a compact disc, or any other type of data storage device or medium, computer printouts, microfilm, microfiche, laser disks, diaries, calendars, photographs, charts, viewgraphs, drawings, sketches and all other writings or drafts thereof), as well as all other tangible things subject to production under Federal Rule of Civil Procedure 34.

8. The term “identify,” when referring to:

- a. a natural person, means to give his or her full name, present or last known address and telephone number, last known place of employment and job title;
- b. a public or private corporation, partnership, association, agency or other entity, means to give its present or last known address and telephone number, and state of incorporation, if applicable;
- c. a document, means to state its general character, title, date, addressee or recipient, author or signatory, present location,

and who has possession, custody or control of the document;

d. a product, means to provide a description of the item which is offered for sale, and the intended customer groups, channels of trade, approximate price, and market for the product;

e. a service, means to describe the service and the intended customer groups, channels of trade, approximate price, and market for the service.

9. The term “communication” is defined as any transmission or exchange of information between two (2) or more persons, orally or in writing, and includes, without limitation, any conversation or discussion, whether face-to-face or by means of telephone, letter, facsimile, electronic, digital or other media.

10. The terms “relating to” and “related to” mean concerning, containing, evidencing, describing, constituting, referring to, explaining, discussing or reflecting.

11. The connectives “and” and “or” and the term “and/or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the request all documents that might otherwise be construed to be outside its scope.

12. The use of a present tense shall include past tenses.

13. The use of the singular form of any word also includes the plural and *vice versa*.

14. The terms “all” and “each” shall each be construed to include the other.

INSTRUCTIONS

1. You are requested to produce for inspection and copying all responsive documents and things in your possession, custody or control, including all documents and things in the custody of your attorneys, consultants, agents, other representatives, and other persons or entities subject to your control.

2. You are to produce the documents and things as they are kept in the ordinary course of business, with appropriate markings or designations so that it may be determined to which request they are responsive.

3. You are to produce the original and all non-identical copies of each requested document or thing, including all copies which bear any additional file stamps, marginal notes or other additional markings or writings that do not appear on the original. The production shall include the file, envelope, folder, binder, or other container in which the responsive documents and things are kept. If, for any reason, the container cannot be produced, you are to produce copies of all labels or other identifying markings.

4. Documents that exist in digital format and constitute or comprise

databases or other tabulations or collections of data or information should be produced in a machine-readable format to be mutually agreed upon by the parties. Documents that exist in digital format and constitute or comprise written communications between natural persons (e.g., e-mail messages, internal memos, letters, etc.) should be produced both in a machine-readable format to be mutually agreed upon by the parties and in hard-copy form.

5. If you cannot fully respond to any request after a diligent attempt, respond to the request to the extent possible and specify the portion of the request to which you are unable to respond.

6. If you claim that any request, definition or instruction is ambiguous, state the language you claim is ambiguous and the interpretation you have used to respond to the request.

7. If you contend that any document or thing has been lost or destroyed, set forth the contents of the document or thing, the location of any copies, the date of loss or destruction, the name of the person who ordered or authorized the destruction, if any, and the authority and reasons for such destruction.

8. If you decline to produce any information, document, or thing on this basis of the attorney-client, work product, or other privilege, respond to so much of the discovery request as is not subject to the claimed objection, and for each document or

thing, provide the following information:

- a. the type and title of the document or thing;
- b. the general subject matter of the document or description of the thing;
- c. the date of its creation;
- d. the identity of the document's author(s), addressee(s) and recipient(s);
- e. the nature of the privilege being claimed; and
- f. in detail, all facts upon which you base your claim of privilege.

9. With respect to any document stored on a machine-readable medium, please make available both a hard copy printout of the document and a copy of the computer or electronic tape, disc or other electronic medium on which the document is stored.

10. Complete production is to be made on the date and at the time indicated above.

11. You have a duty to supplement your responses from now until the time of hearing or trial, as provided by Federal Rule of Procedure 26(e).

DOCUMENTS AND THINGS REQUESTED

DOCUMENT REQUEST NO. 1:

All documents relating to the claim SUSINO USA was acting a “agent” or “middleman”.

DOCUMENT REQUEST NO. 2:

All documents relating to communications between you and Shu-lian Shyu and Todd Nadrich and Jorzon Wang.

DOCUMENT REQUEST NO. 3:

All documents relating to communications with third parties, other than your counsel, concerning SUSINO trademark umbrellas sold within the USA.

DOCUMENT REQUEST NO. 4:

All documents relating to actual confusion between you or any of your products and services, and SUSINO or any of its products or services.

DOCUMENT REQUEST NO. 5:

All documents sent to you or that you sent to Tony Tue, Patrick Lam, Jorzon Wang, Carter Guan, Todd Nadrich, Shu-lian Shyu or any other US company relating to any incident or proceeding in which

SUSINO USA has challenged your use or registration of, or that the rights you claim, in the rights to SUSINO including but not limited to any demand to cease and desist.

DOCUMENT REQUEST NO. 6:

All documents relating to any incident or proceeding in which a third party has

challenged your use or registration of, or the rights you claim in the SUSINO marks, including but not limited to any demand to cease and desist.

DOCUMENT REQUEST NO. 7:

All documents relating to any incident or proceeding in which you have challenged the rights of a third party based on the rights you claim to the SUSINO marks, including but not limited to any demand to cease and desist.

DOCUMENT REQUEST NO. 8:

All documents relating to your selection and/or adoption of all SUSINO marks.

DOCUMENT REQUEST NO. 9:

All documents relating to your decision to file the SUSINO application.

DOCUMENT REQUEST NO. 10:

All documents relating to your decision to file for the SUSINO registration.

DOCUMENT REQUEST NO. 11:

All documents relating to your decision to file trademark application for the SUSINO mark.

DOCUMENT REQUEST NO. 12:

All sales registers and invoices from January 1, 2002 – December 31, 2009 for sales to the USA.

DOCUMENT REQUEST NO. 13:

All documents relating to any trademark applications you have filed for the SUSINO including but not limited to any correspondence between you or your counsel, on the one hand, and the U.S. Patent and Trademark Office on the other.

DOCUMENT REQUEST NO. 14:

All documents relating to any communications between you or your counsel, on the one hand, and the U.S. Patent and Trademark Office, on the other hand, concerning trademark applications incorporating the word SUSINO led by anyone other than you.

DOCUMENT REQUEST NO. 15:

All documents relating to any investigation, trademark search, and/or other inquiry conducted by you, and/or on your behalf, in connection with assessing the availability, registrability, or use of the SUSINO.

DOCUMENT REQUEST NO. 16:

All documents relating to studies and/or surveys in connection with the use of the SUSINO word,

DOCUMENT REQUEST NO. 17:

All documents relating to studies, tests, ratings, and/or surveys in connection with your products and services including but not limited to requests from to Todd Nadrich.

DOCUMENT REQUEST NO. 18:

All documents relating to your selection, adoption and registration of any Internet domain names incorporating the word SUSINO.

DOCUMENT REQUEST NO. 19:

Document sufficient to identify every product and service on or in connection with

which you have used or are using the SUSINO marks.

DOCUMENT REQUEST NO. 20:

All documents relating to the dates of the first use, on or in connection with each of your products and services, of the SUSINO marks in the US.

DOCUMENT REQUEST NO. 21:

All documents relating to the dates of first use in commerce, on or in connection with each of your products and services, of SUSINO marks in the US.

DOCUMENT REQUEST NO. 22:

All documents relating to your past and present efforts to promote or expand public awareness of the SUSINO marks in the US.

DOCUMENT REQUEST NO. 23:

All documents relating to any license agreements, or consents to use, that you have granted to third parties for SUSINO marks worldwide.

DOCUMENT REQUEST 24:

All documents relating to your plans for future use of, or plans to license others in the future to use, the SUSINO marks worldwide.

DOCUMENT REQUEST NO. 25:

All documents relating to your use of the SUSINO marks on any product.

DOCUMENT REQUEST NO. 26:

All documents relating to your plans to use, or plans to license others to use, the SUSINO marks on all rainwear product.

DOCUMENT REQUEST NO. 27:

All documents relating to your use of the SUSINO marks in connection with SUSINO USA.

DOCUMENT REQUEST NO. 28:

All documents relating to your plans to use, or plans to license others to use, the SUSINO marks in connection with engineering services.

DOCUMENT REQUEST NO. 29:

All documents relating to your use of the SUSINO marks in connection with any and all third parties.

DOCUMENT REQUEST NO. 30:

All commission agreements and all documents relating to commissions paid to Jorzon Wang.

DOCUMENT REQUEST NO. 31:

Documents sufficient to show your annual expenditures on domestic advertising and marketing of the SUSINO since first use in the United States.

DOCUMENT REQUEST NO. 32:

Documents sufficient to show the geographic scope of your business and promotional activities using the SUSINO marks within the USA.

DOCUMENT REQUEST NO. 33:

One copy of each advertising, marketing, and promotional material showing use of the SUSINO marks on any goods or services, including but not limited to web pages, catalogs, circulars, leaflets, direct mail pieces, brochures, point of sale pieces, press releases, web-based advertisements (including but not limited to banner ads), newspaper and magazine advertisements and articles, transcripts and audio tapes for radio advertisements, and transcripts and video tapes of television advertisements.

DOCUMENT REQUEST NO. 34:

All documents relating to your policies regarding retention, storage, filing and destruction of electronic mail, documents and things.

DOCUMENT REQUEST NO. 35:

All documents relating to the target markets to which you have offered, or intended to offer, products or services identified by the SUSINO marks.

DOCUMENT REQUEST NO. 36:

All documents sufficient to identify trade shows or conferences that you have attended.

DOCUMENT REQUEST NO. 37:

All documents relating to the channels of trade through which you have sold or offered for sale products or services identified with the SUSINO marks designated by country.

DOCUMENT REQUEST NO. 38:

All documents sufficient to show the cost to your customers of all products or services you offer in connection with the SUSINO marks.

DOCUMENT REQUEST NO. 39:

All documents sufficient to identify the persons involved in design, sales, marketing, communications, business strategy, or business planning for SUSINO.

DOCUMENT REQUEST NO. 40:

Documents sufficient to show SUSINO UMBRELLA legal status and date founded,

including all documents related to the incorporation of SUSINO UMBRELLA.

DOCUMENT REQUEST NO. 41:

Documents sufficient to show SUSINO UMBRELLA legal status and date founded,

including all documents related to the incorporation of SUSINO UMBRELLA Corporation.

DOCUMENT REQUEST NO. 42:

Documents sufficient to show the legal relationship between ANBANG WANG and SUSINO USA.

DOCUMENT REQUEST NO. 43:

Documents sufficient to identify all officers, directors and owners of all predecessors, subsidiaries, parent companies, affiliated companies, and joint venturers (collectively, “Affiliates of SUSINO UMBRELLA”).

DOCUMENT REQUEST NO. 44:

Documents sufficient to show the legal relationship between ANBANG WANG and any Affiliates of SUSINO UMBRELLA.

DOCUMENT REQUEST NO. 45:

All documents sufficient to identify all advertising agencies or consultants engaged by you for advertising and promoting products or services on or in connection with which the SUSINO marks are or have been used.

DOCUMENT REQUEST NO. 46:

All documents sufficient to identify all advertising agency employees or

consultants that have the most knowledge of the advertisement and promotion of products or services offered under SUSINO marks.

DOCUMENT REQUEST NO. 47:

All documents related to e-mail communications directed to, addressed to, or intended for, or received by you.

DOCUMENT REQUEST NO. 48:

All documents related to communications, other than e-mail, directed to, addressed to, or intended for JORZON WANG but received by you.

DOCUMENT REQUEST NO. 49:

A copy of each print or online publication in which reference to you has appeared.

DOCUMENT REQUEST NO. 50:

All documents related to your knowledge of communications to acquire Dyno Merchandise with Todd Nadrich preceding your filing of an application for the SUSINO.

DOCUMENT REQUEST NO. 51:

Any and all communications concerning the acquired of rights of the USINO name in the USA.

Respectfully Submitted:

By: /s/ /Todd Nadrich/

Todd Nadrich
Susino USA, Ltd
PO Box 1013
Loxahatchee, Fl. 33470
Telephone: 954-252-3911
Fax: 954-252-3911

Certificate of Service

I hereby certified that the above and forgoing REQUEST FOR DOCUMENTS served upon Opposers by
depositing a copy of same in the United States Mail, first class postage prepaid, on this 23 day of December,
2009, addressed to:

Anbang Wang
Jinou Industrial Park
Dongshi Town
Jinjiang, FJ 352771
China,

/s/ /Todd Nadrich/

Todd Nadrich

EXHIBIT D

ESTTA Tracking number: **ESTTA283549**Filing date: **05/13/2009**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	SUSINO UMBRELLA CO., LTD.
Granted to Date of previous extension	05/13/2009
Address	Jin'ou Industrial ParkDongshi Town Jinjiang, FJ 362271 CHINA
Attorney information	Scott Q Vidas Vidas, Arrett & Steinkraus, P.A. 6640 Shady Oak Road Suite 400 Eden Prairie, MN 55344-7834 UNITED STATES svidas@vaslaw.com Phone:9525633003

Applicant Information

Application No	77355544	Publication date	01/13/2009
Opposition Filing Date	05/13/2009	Opposition Period Ends	05/13/2009
Applicant	Susino USA, LLC PO Box 1013 Loxahatchee, FL 33470 UNITED STATES		

Goods/Services Affected by Opposition

Class 018. First Use: 2007/06/01 First Use In Commerce: 2007/12/10 All goods and services in the class are opposed, namely: Beach umbrellas; Beach umbrellas; Frames for umbrellas; Golf umbrellas; Metal parts of umbrellas; Parasols; Patio umbrellas; Table umbrellas; Telescopic umbrellas; Umbrella covers; Umbrella frames; Umbrella handles; Umbrella rings; Umbrellas; Umbrellas and parasols; Umbrellas and their parts; Umbrellas for children

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

Mark Cited by Opposer as Basis for Opposition

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	SUSINO		

Goods/Services	Umbrellas
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Attachments	14527US01_NoticeOpposition_20090513.pdf (5 pages)(75579 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Scott Q. Vidas/
Name	Scott Q Vidas
Date	05/13/2009

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of App. Ser. No. 77/355,544)	
)	
SUSINO UMBRELLA CO., LTD.)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
SUSINO USA LLC,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Opposer, Susino Umbrella Co., Ltd., ("Susino Umbrella "), a Chinese corporation having offices at Jin' ou Industrial Park Dongshi Town, Jinjiang, FJ 362271 CHINA, believes that it will be damaged by the registration of Application Serial No. 77/355,544, and hereby opposes registration of the same under 15 U.S.C. §§ 1052(d) and 1063.

1. On December 19, 2007, Susino USA, LLC ("Applicant") filed an application, Application Serial No. 77/355,544, for the designation SUSINO (stylized) for "beach umbrellas, frames for umbrellas, golf umbrellas, metal parts of umbrellas, parasols, patio umbrellas, table umbrellas, telescopic umbrellas, umbrella covers, umbrella frames, umbrella handles, umbrella rings" in International Class 18 (the "Application").

2. The United States Patent and Trademark Office published the Application for opposition in the *Official Gazette* on January 13, 2009, allowing time to oppose said application up to and including February 13, 2009. On January 19, 2009, Susino Umbrella filed a 30 Day Request for Extension of Time to Oppose until March 13, 2009. The Trademark Trial and Appeal Board granted Susino Umbrella's Request for Extension of Time. On March 5, 2009, Susino Umbrella filed a 60 Day Request for

Extension of Time to Oppose until May 13, 2009. The Trademark Trial and Appeal Board granted Susino Umbrella's Request for Extension of Time. Susino Umbrella has timely filed this Notice of Opposition.

3. Susino Umbrella owns the mark SUSINO and associated nationwide common law rights in the trademark SUSINO and had filed Application Serial No. 79/001855 under 66A, for SUSINO plus design and Characters for "Umbrellas, umbrella rings, frames for umbrellas or parasols, umbrella sticks, umbrella covers, umbrella handles, parasols" in International Class 18 under its previous name, Jinjiang Hengshun Umbrella Company, Ltd. (although the translator filing mis-translated it to "Jinjiang Hengshun Gingham Company, Ltd. at the same address). The usage claimed by Applicant is by selling umbrellas made and marked SUSINO by Susino Umbrella in China which were sent to Applicant for distribution and sale in the United States. Applicant was merely a middleman that received Susino Umbrella product. The catalog specimen submitted by Applicant is Susino Umbrella's catalog and Applicant knew or should have known that the specimen it submitted was not its own.

4. As a result, Susino Umbrella's rights in the trademark SUSINO have priority over the Application at issue based on Susino Umbrella's prior use of the mark SUSINO. Susino Umbrella's use of the mark SUSINO for "umbrellas" began prior to Applicant's December 19, 2007, filing date for the Application and its alleged dates of use of June 1, 2007 and in commerce of December 10, 2007.

5. Applicant's application for, and intended use of, the designation SUSINO for the goods identified in the Application so resembles Susino Umbrella's nationwide common law rights in the trademark and pending application to register SUSINO as to be likely to cause confusion, mistake, or deception under § 2(d) of the Trademark Act, 15 U.S. C. § 1052(d).

6. The designation SUSINO in the Application is identical to Susino Umbrella's prior rights in the trademark SUSINO. In fact, Applicant was the United States Distributor and Dealer for Susino Umbrella selling its umbrellas bearing the SUSINO mark in the United States. There is no agreement between Applicant and Susino Umbrella in which Applicant would be provided any rights to the SUSINO trademark of Susino Umbrella. Susino Umbrella is the manufacturer and labels the umbrellas with the SUSINO mark and Applicant merely sold the goods for Susino Umbrella in the United States.

7. Susino Umbrella is entitled to protection of the goodwill in its SUSINO trademark against confusingly similar marks.

8. If the Application is allowed to register, purchasers of umbrellas sold under the designation SUSINO are likely to be confused into believing that Applicant's goods originated or are connected with, or are sponsored, licensed, endorsed or approved by, Susino Umbrella or its SUSINO trademark or goods, all to Susino Umbrella's detriment. Registration of the designation SUSINO by Applicant would allow Applicant to wrongfully appropriate Susino Umbrella's valuable goodwill and reputation associated with its SUSINO trademark.

9. If the Application is allowed to register, Susino Umbrella would likely be prevented from obtaining a registration to register the trademark SUSINO for "umbrellas", despite its priority of use of the trademark SUSINO.

10. As a result of the likelihood of confusion that would be caused by Applicant's proposed registration and use of the designation SUSINO, Susino Umbrella believes that issuance of a registration based on the Application will result in damage and injury to Susino Umbrella. Applicant's registration of the designation SUSINO would allow Applicant an unqualified right (a) to wrongfully appropriate Susino Umbrella's goodwill and reputation associated with the mark SUSINO; (b) to benefit from the likely confusion among purchasers as to the source or sponsorship of SUSINO goods; and (c) to harm Susino Umbrella's goodwill and reputation associated with the mark SUSINO by allowing any fault with or objection to Applicant's goods to reflect adversely upon Susino Umbrella.

WHEREFORE, Susino Umbrella prays that the Board sustain this Notice of Opposition and refuse to register Application Serial No. 77/355,544.

Susino Umbrella hereby appoints Scott Q. Vidas, Richard A. Arrett and Vidas, Arrett & Steinkraus, P.A., 6640 Shady Oak Road, Suite 400, Eden Prairie, MN 55344-7834, as its representative upon whom notices and process in proceedings affecting this proceeding may be served.

Respectfully submitted,
SUSINO UMBRELLA CO., LTD.

By: /s/ /Scott Q. Vidas/
One of its Attorneys

Dated: May 13, 2009

Scott Q. Vidas
VIDAS, ARRETT & STEINKRAUS, P.A.
6640 Shady Oak Drive
Suite 400
Eden Prairie, Minnesota 55344-7834
Tel. No. 952-563-3000
Facsimile No. 952-563-3001
svidas@vaslaw.com

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing **NOTICE OF OPPOSITION** to be served upon:

SUSINO USA, LLC
P.O. Box 1013
Loxahatchee, Florida 33470-1013

by placing same in an envelope, properly sealed and addressed, with postage prepaid and depositing same with the United States Postal Service on this 13th day of May, 2009.

/s/ /Scott Q. Vidas/
Scott Q. Vidas

Filed with the TTAB via
ESSTA on May 13, 2009

ESTTA Tracking number: **ESTTA288256**

Filing date: **06/05/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91190169
Party	Defendant Susino USA, LLC
Correspondence Address	SUSINO USA LLC PO BOX 1013 LOXAHATCHEE, FL 33470-1013 tnadrich@stsource.com
Submission	Answer
Filer's Name	Todd Nadrich
Filer's e-mail	tnadrich@stsource.com
Signature	/Todd Nadrich/
Date	06/05/2009
Attachments	Susino Answer.pdf (5 pages)(22813 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE
THE TRADEMARK TRIAL AND APPEAL BOARD**

In The Matter of App. Ser. No. 77/355,544)	
)	
)	
SUSINO UMBRELLA CO., LTD.)	
)	
Opposer,)	
)	
v.)	Opposition No. 91190169
)	
SUSINO USA, LLC)	
)	
Applicant,)	

ANSWER TO NOTICE OF OPPOSITION WITH AFFIRMITIVE DEFENSES

Applicant Susino USA, LTD hereby submits its Answer to the Notice of
Opposition filed by Susino Umbrella Co, LTD as follows:

- 1) Applicant admits the allegation in Paragraph 1.
- 2) Applicant admits the allegation in Paragraph 2.
- 3) Applicant is without knowledge or information sufficient to form a belief as to paragraph 3 and therefore denies the allegation same.
- 4) Applicant is without knowledge or information sufficient to form a belief as to paragraph 4 and therefore denies the allegation same.
- 5) Applicant is without knowledge or information sufficient to form a belief as to paragraph 5 and therefore denies the allegation same.

6) Applicant is without knowledge or information sufficient to form a belief as to paragraph 6 and therefore denies the allegation same.

7) Applicant is without knowledge or information sufficient to form a belief as to paragraph 7 and therefore denies the allegation same.

8) Applicant is without knowledge or information sufficient to form a belief as to paragraph 8 and therefore denies the allegation same.

9) Applicant is without knowledge or information sufficient to form a belief as to paragraph 9 and therefore denies the allegation same.

10) Applicant is without knowledge or information sufficient to form a belief as to paragraph 10 and therefore denies the allegation same.

As and for Affirmative Defenses, Applicant states as follows:

APPLICANT'S AFFIRMATIVE DEFENSES

In prosecuting its application to register SUSINO, Susino Umbrella in paragraph 3, alleges to have had filed Application Serial No. 79/001855 under 66A, Susino plus design and Characters and in Paragraph 5 Susino Umbrella alleges a pending application and fails to mention this application was abandoned by Notice of Abandonment on April 15, 2005 most notably under a different company name other than the Susino Umbrella and it being mistranslated, but rather a Jianjiang Hengshun Gingham Company, Ltd. (JHG).

In essence Susino Umbrella is claiming on behalf of JHG the mark is identical in Serial No. 79/001855, however Susino Umbrella does not disclose or mention the examining attorney issued an office action on October 12, 2004

instructing the then applicant, JHG not Susino Umbrella, to submit a new drawing showing the entire mark clearly and conforming to 37 C.F.R. §§2.52 and stating the current drawing is not acceptable because the depiction of the mark is unclear; the drawing is a photocopy of the mark that will not reproduce satisfactorily and failed to respond to the examining attorney.

Additionally the examining attorney in No. 79/001855 determined the applicant, JHG, must indicate whether “SUSINO” has any significance in the relevant trade, any geographical significance, or any meaning in a foreign language. 37 C.F.R. §2.61(b) and it again neglected to respond to the examining attorney thus resulting in notice of abandonment in which the mark was eventually abandoned.

In paragraph 7, Susino Umbrella alleges it is entitled to protection of the Goodwill in its trademark against confusingly similar marks, yet Susino again fails to mention in October 12, 2004 the examining attorney rejected and refused to register that mark under Trademark Act Section 2(d), 15 U.S.C. §1052(d), because the applicant’s mark, when used on or in connection with the identified goods, so resembles the mark in U.S. Registration No. 1294244 as to be likely to cause confusion, to cause mistake, or to deceive. TMEP §§1207.01 *et seq.* and JHG neglected to respond again to the examining attorney and knowingly taking no action and abandoned the application the Opposer is relying on in its opposition.

Susino Umbrella relies on the now abandoned application by another applicant, JHG , whereas the Commissioner of Trademarks issued a Notification of Confirmation of Provisional Refusal to the IB, office reference 79001855, in

accordance with rule 17(5)(a)(i) of the Common Regulations stating in part “The United States Patent and Trademark Office hereby notifies the International Bureau of the REFUSAL TO GRANT PROTECTION in the United States” diminishing, if any, common law rights of protection as claimed by Susino Umbrella in Paragraph 5.

Susino Umbrella having had the knowledge of the abandonment of JHG’s application and the Commissioner’s prior refusal to grant protection never once attempted to revive the application on behalf of JHG and is only coming forth in opposition of Susino USA’s application.

Therefore the Applicant puts for the affirmative defenses including but not limited to the doctrine of laches, abandonment, unclean hands, acquiescence, and estoppel prevailing in favor of the applicant.

WHEREFORE, Applicant respectfully requests that the Notice of Opposition be rejected and the Applicant’s mark be allowed to proceed to registration.

Respectfully Submitted:

By: /s/ /Todd Nadrich/

Todd Nadrich
Susino USA, Ltd
PO Box 1013
Loxahatchee, Fl. 33470
Telephone: 954-252-3911
Fax: 954-252-3911

Certificate of Service

I hereby certified that the above and forgoing Answer to Notice of Opposition with Affirmative Defenses was served upon Opposers by depositing a copy of same in the United States Mail, first class postage prepaid, on this 5 day of June, 2009, addressed to:

Scott Q. Vidas
Vidas, Arrett & Steinkraus, PA
6640 Shady Oak Dr.
Suite 400
Eden Prairie, MN 55344-7834
Attorney for Opposers

/s/ /Todd Nadrich/

Todd Nadrich

ESTTA Tracking number: **ESTTA319224**

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91190169
Party	Plaintiff SUSINO UMBRELLA CO., LTD.
Correspondence Address	Scott Q Vidas Vidas, Arrett & Steinkraus, P.A. 6640 Shady Oak Rd., Suite 400 Eden Prairie, MN 55344-7834 UNITED STATES svidas@vaslaw.com
Submission	Other Motions/Papers
Filer's Name	Wang Anbang
Filer's e-mail	meihuaumbrella@yahoo.com.cn
Signature	/Wang Anbang/
Date	11/29/2009
Attachments	SUSINO prentative-1.TIF (1 page)(1578844 bytes) SUSINO prentative-2.TIF (1 page)(1284806 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of App. Ser. No. 77/355,544)	
)	
SUSINO UMBRELLA CO., LTD.)	
)	
Opposer,)	
)	
v.)	Opposition No.91190169
)	
SUSINO USA LLC,)	
)	
Applicant.)	

STATEMENT OF OPPOSER CHOOSES TO REPRESENT ITSELF

We,opposer,state that choose to present itself on the proceeding
of this case,because we are still looking for the proper new counsel.

WHEREFORE,SUSINO UMBRELLA CO., LTD.,Opposer
requests this board to grant our request.

Respectfully Submitted:

By: / Wang Anbang/

Wang Anbang

SUSINO UMBRELLA CO., LTD.

Jin' ou Industrial Park Dongshi Town, Jinjiang, FJ 362271 CHINA

Email: Meihuaumbrella@yahoo.com.cn

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing STATEMENT OF OPPOSER CHOOSES TO REPRESENT ITSELF to be served upon:

SUSINO USA, LLC

Todd Nadrich

P.O. Box 1013

Loxahatchee, Florida 33470-1013

Scott Q. Vidas

VIDAS, ARRETT & STEINKRAUS, P.A.

6640 Shady Oak Drive

Suite 400

Eden Prairie, Minnesota 55344-7834

Tel. No. 952-563-3000

Facsimile No. 952-563-3001

svidas@vaslaw.com

by E-mailing the same on this 30th day of Nov, 2009(China Time).

/ Wang Anbang/

Wang Anbang